

STATE OF VERMONT
DEPARTMENT OF EDUCATION

Special Education
Case #DP06-22

Due Process Hearing

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

A Due Process Hearing Request was filed in this case by the parents on June 12, 2006 requesting that the student's current placement at the Pine Ridge School in Williston, Vermont be maintained and funded for the 2006-2007 school year. On September 28th and 29th, 2006 the school district's attorney and the family's attorney signed a factual stipulation supporting the student's placement at the Pine Ridge School for the 2006-2007 school year.

FINDING OF FACTS

1. The student is fourteen years old who is currently in the eighth grade. For seventh grade, he attended Pine Ridge, a school for children with disabilities, for the 2005-2006 school year with the approval of the Vermont Department of Education.

2. A 2003 evaluation of the student reported a Full Scale I.Q. of 102 with a Verbal Scale of 98 and a Performance Scale of 107. A 2006 evaluation reported a Verbal Comprehension Score of 102, a Perceptual Reasoning Score of 86, a Working Memory Score of 94, a Processing Speed Score of 88 and a Full Scale I.Q. of 91.

3. The student has been recently diagnosed with a speech and language impairment which includes articulation problems, fluency, language processing problems (receptive deficits which compromise expressive output, especially in the area of social language use) a profound delay in pragmatic language usage, learning weakness, difficulty producing language on demand, and characteristics of Non Verbal Learning Disability (NVLD) and a profound Learning Language Disability (LLD). Currently his disability determination is: 1) Specific Learning Disability, 2) Speech and Language Impairment and 3) motor skills (Visual Motor Integration).

4. The student's Team at the district's elementary school (hereafter "district's school") determined that his disability has had an adverse effect on his educational performance in the basic skill areas of math calculation and reasoning and written language and, in addition, was impacting his ability to progress in the general curriculum in the regular classroom.

5. The student's inability to express himself in social situations has resulted in pervasive social anxiety. In language interaction, his formulation is extremely limited in terms of productivity and he is required to use pauses and filters to buy time when trying to formulate more than one sentence.

6. While at the district's school, the student received a modified curriculum. His problems with fluency and processing created significant obstacles to learning and maintaining grade level work. These difficulties have also affected his ability to interact with peers. Based on past evaluations and academic performance, the student was performing at a 2/3 grade level in math and a 4/5 grade level in writing. The student's Pine Ridge team has indicated that his grades of A's and B's are based on his individual ability and he is performing below grade level. If the student were attending the district's school, he would be performing in the lowest 15% of his class in math and written language.

7. Before the student attended Pine Ridge, his 2004-2005 IEP, implemented at the district's school, provided him with a variety of strategies that were not successful. In addition to the team consulting with a special educator, an assistive technology specialist, an OT and an SLP, the student was offered individual counseling, family counseling and psychotherapy. His program provided for specialized instruction in reading, written language, math, as well as speech and language services, occupational therapy in the areas of fine and visual motor and visual perceptual skills, some of which took place in the resource room. The student's 2004-2005 IEP indicated that he required specialized/intensified instruction "that is incompatible with the regular class setting."

8. When the student attended Pine Ridge during the 2005-2006 school year, the Vermont Department of Education required that the Stern Center do a file review/evaluation. A neuropsychological evaluation was also done by the Stern Center. The results were consistent with the determinations of the student's Team, except that the Stern Center did not agree that the

student has the characteristics of NVLD.

9. At Pine Ridge, the student receives a modified curriculum based on his ability. His program consists of focused, diagnostic-prescriptive multi-sensory instruction that improves skills as opposed to using by-pass strategies and accommodations that allow his areas of weakness to continue. The student's emotional needs are being met through counseling and interaction with peers with similar disabilities. Being a part of structured dorm time and being away from home and his more accomplished twin sister have been therapeutic for the student

10. There is concern that transitioning the student back to the district's school for the 2006-2007 school year would jeopardize his emotional stability especially given that another transition is likely to occur the following year. In addition, it will take another year, given the student's profound language disability, for him to develop sufficient confidence for transitioning to a regular education environment.

11. As a condition of their agreement to support the student's placement at Pine Ridge for the 2004-2005 school year, the Department of Education required the district to pursue training in the language curriculum most needed by the student. The Stern Center is able to provide this training during the 2006-2007 school year and the district has made plans to meet the Department's requirement. It is clear, however, that during the current school year while the teachers are being trained, the district will not be able to meet the student's language based needs.

12. Attending the district's school for 2006-2007 would also result in the student having to spend a significant amount of the day in the Resource Room which in combination with having his twin sister at the same school but in a different situation would impact him negatively.

13. The nature of the educational recommendations for the student make one-to-one instruction and small group interactions more effective. This instruction is more likely to be successful at Pine Ridge where the student can work intensely with specifically trained instructors.

14. The student's EPT and IEP team determined that the student needed specially designed instruction which cannot be provided within the standard instructional conditions created by the district's school.

15. For the reasons set forth above, the IEP team determined that the student could not receive an appropriate education for the 2006-2007 school year at the district's school. The IEP team also determined that placing the student at Pine Ridge for the 2006-2007 school year would provide him with the least restrictive, appropriate placement.

CONCLUSIONS OF LAW

1. State and federal law require that the student be provided with a free appropriate public education that meets his unique needs and will allow him to receive meaningful educational benefit. *Board of Educ. v. Rowley*, 458 US 176, 207. *Walczak v. Florida Union Free Sch. Dist.*, F.3d at 130 (2d Cir. 1998) (*quoting Rowley*, 458 U.S. at 192).

2. Whether a child's education program will provide meaningful benefit is an individual determination. Such factors as the detrimental effect of changing a student's current placement must be considered. *S.H. v. State-Operated school District of the City of Newark*, 336 F3d 260.

3. Consideration of the relevant factors included in the stipulated facts set forth above supports the determination that the district's school is not currently able to provide the student with the required meaningful educational benefit.

4. The Pine Ridge School is an appropriate placement for the student for the 2006-2007 school year

ORDER

The student's placement for the 2006-2007 school year shall be the Pine Ridge School.

Dated at Hartland, Vermont this 12th day of October 2006.

Catherine C. Stern
Hearing Officer